

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH  
CAROLINA CHARLOTTE DIVISION  
DOCKET NO. 3:15-MC-00094-MOC-DSC**

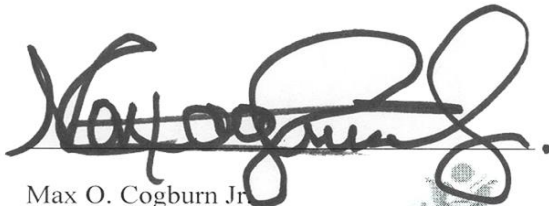
<b>IN RE: MOTION TO QUASH</b>	)	
<b>SUBPOENA <i>DUCES TECUM</i></b>	)	
<b>SERVED ON ROBERT F. SMITH,</b>	)	<b>ORDER</b>
<b>BRIAN EBERHARD, AND WELLS</b>	)	
<b>FARGO BANK, N.A.</b>	)	
	)	

**THIS MATTER** is before the court on Physicians Choice Laboratory Services, LLC's Motion to Quash Subpoena *Duces Tecum* Served on Robert F. Smith, Brian Eberhard, and Wells Fargo Bank, N.A. (#9). Despite the Order of this court (#37) requiring the parties issuing the subpoena to respond to the Motion to Quash on or before July 3, 2015, no such response was filed by Defendants. The court has carefully considered the record, authorities, and the arguments of Physicians Choice Laboratory Services, LLC. Given the failure of the issuers of the subpoena to respond and argue for the relevance of the information targeted by the subpoena, the court finds that Defendants have not met the standard to overcome the high burden of non-parties such as Physicians Choice Laboratory Services, LLC. As a result, the court will grant Physicians Choice Laboratory Services, LLC's motion to quash Document Request #1 in the Subpoena to Robert Smith, Document Request #1 in the Subpoena to Brian Eberhard, and Document Request #1 in the Subpoena to Wells Fargo Bank, N.A., all without prejudice to Defendants. If Defendants seek to issue additional subpoenas to such entities, they may seek permission from the court and explain why such information is relevant and appropriate for subpoena.

## ORDER

**IT IS, THEREFORE, ORDERED** that Physicians Choice Laboratory Services, LLC's Motion to Quash Subpoena *Duces Tecum* Served on Robert F. Smith, Brian Eberhard, and Wells Fargo Bank, N.A. (#9) is **GRANTED**, without prejudice to Defendants to re-issue a subpoena seeking the information initially sought after seeking leave from the court.

Signed: July 17, 2015



Max O. Cogburn Jr.  
United States District Judge